SPLOS/WP.7/Rev.1
31 March 1999

ORIGINAL: ENGLISH

MEETING OF STATES PARTIES
Ninth meeting
New York, 19-28 May 1999

DRAFT PENSION SCHEME REGULATIONS FOR MEMBERS OF THE INTERNATIONAL TRIBUNAL FOR THE LAW OF THE SEA

Proposed by the Tribunal

(As approved by the Tribunal on 5 March 1999)

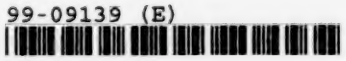
Explanatory note

1. In accordance with article 18, paragraph 1, of the Statute of the International Tribunal for the Law of the Sea (United Nations Convention on the Law of the Sea, Annex VI) and article 6, paragraph 2, of the Rules of Procedure of the Meeting of States Parties, the Tribunal proposed the inclusion in the provisional agenda of the eighth Meeting of States Parties of an item concerning a pension scheme for judges and submitted to the States Parties for review a draft entitled "Draft Pension Scheme Regulations for members of the International Tribunal for the Law of the Sea".[1]

2. The draft proposed was comparable to the Pension Scheme Regulations for members of the International Court of Justice then in effect.

3. The Eighth Meeting of States Parties addressed the above agenda item.[2] The Meeting agreed that a pension scheme should be established. It also decided to take a decision on the matter before the first group of judges retires. It further noted that more time was needed for consultations between the Registry and the parties concerned regarding the applicability of the scheme of the International Court of Justice, particularly given the fact that the General Assembly might take a new decision with regard to that scheme. The Meeting also decided to include the item in the agenda of its ninth meeting.

4. The Eighth Meeting of States Parties further decided to allocate in the budget of the Tribunal under the item on the pension scheme of judges the sum of US$ 29,167 in order to cover the payment of possible retirement pensions to judges whose terms of office may end on 30 September 1999.[3]



5. Based on the reports of the Secretary-General of the United Nations[4] and the related report of the Advisory Committee on Administrative and Budgetary Questions,[5] the General Assembly at its fifty-third session reviewed the conditions of service and remuneration of the judges of the International Court of Justice, judges of the International Tribunal for the Former Yugoslavia and judges of the International Criminal Tribunal for Rwanda.

6. By its resolution 53/214 of 18 December 1998, the General Assembly approved certain amendments to the Pension Scheme Regulations for Members of the International Court of Justice. It also approved the Regulations concerning the pension scheme of judges of the International Tribunal for the Former Yugoslavia and the Regulations concerning the pension scheme of the International Criminal Tribunal for Rwanda.

7. By the same resolution, the General Assembly approved in particular the recommendation of the Secretary-General, endorsed by the Advisory Committee, that "the pensionable remuneration, or retirement pension, of a judge should be defined as being equal to half the annual salary". However, the Assembly likewise decided that the increase in the amount of the pensions which would result from the application of that principle would not take effect on 1 January 1999, like the annual increase in remuneration approved by the Assembly in the same resolution. Rather, the increase in the pension would take place in three steps - the first increase to take effect on 1 January 1999, the second increase to take effect on 1 January 2000 and the third increase to take effect on 1 January 2001 - and would raise the amount of the pension to one half the annual salary.

8. On the basis of the amendments approved by the General Assembly in the Pension Scheme Regulations for Members of the International Court of Justice and taking into account the views expressed during the consideration of this matter at the Eighth Meeting of States Parties and the relevant decisions of the Meeting of States Parties governing the system of remuneration of members of the Tribunal, the Tribunal, on 5 March 1999, agreed to propose the revised draft Pension Scheme Regulations for members of the International Tribunal for the Law of the Sea. The text of the revised draft is set out below.

Notes

[1] SPLOS/WP.7.

[2] SPLOS/31, paras. 37-40.

[3] SPLOS/L.9, annex III.

[4] A/C.5/53/11 and A/52/520.

[5] A/53/7/Add.6.

DRAFT PENSION SCHEME REGULATIONS FOR MEMBERS OF THE INTERNATIONAL TRIBUNAL FOR THE LAW OF THE SEA

Article 1

Retirement pension

1. A member of the International Tribunal for the Law of the Sea who has ceased to hold office and who has reached the age of 60 shall be entitled during the remainder of his/her life, subject to paragraph 4, to a retirement pension, payable monthly, provided that he or she has:

(a) Completed at least three years of service;

(b) Not been required to relinquish his/her appointment in accordance with article 9 of the Statute of the Tribunal for reasons other than the state of his/her health.

2. The amount of the retirement pension shall be determined as follows:

(a) If the member has served a full term of nine years, the amount of the annual pension shall be one half of the annual salary;

(b) If the member has served for more than nine years and was in office prior to 1 January 1999, the amount of the pension shall be increased by 1/300 of the amount payable under paragraph 2, subparagraph (a), for each month of service in excess of nine years, provided that the maximum retirement pension shall not exceed two thirds of the annual salary;

(c) If he/she has served for less than a full term of nine years, the amount of the pension shall be that proportion of the annual pension which the number of months of his/her actual service bears to 108.

3. A member who ceases to hold office before the age of 60 and who would be entitled to a retirement pension when he/she reached that age may elect to receive a pension from any date after the date on which he/she ceases to hold office. Should he/she so elect, the amount of such pension shall be that amount which has the same actuarial value as the retirement pension which would have been paid to him/her at the age of 60.

4. No retirement pension shall be payable to a former member who has been re-elected to office until he/she again ceases to hold office. At that time, the amount of his/her pension shall be calculated in accordance with paragraph 2 on the basis of his/her total period of service and shall be subject to a reduction equal in actuarial value to the amount of any retirement pension paid to him/her before he/she reached the age of 60.

Article 2

Disability pension

1. A member found by the Tribunal to be unable to perform his/her duties because of permanent ill-health or disability shall be entitled upon leaving office to a disability pension payable monthly.

2. The amount of the disability pension shall be equal to the amount of the retirement pension which would have been payable to the member of the Tribunal concerned, had he/she, at the time of leaving office, completed the term for which he/she had been elected, provided that it shall not be less than one half of the annual pension.

Article 3

Surviving spouse's pension

1. Upon the death of a married member, his/her surviving spouse shall be entitled to a surviving spouse's pension amounting to one half of the pension which he/she would have received had he/she become entitled to a disability pension at the time of his/her death, provided that the surviving spouse's pension shall not be less than one third of the annual pension.

2. Upon the death of a married former member who was in receipt of a disability pension, his/her surviving spouse, provided he/she was his/her spouse at the date his/her service ended, shall be entitled to a surviving spouse's pension amounting to one half of the pension which his/her spouse was receiving, provided that the surviving spouse's pension shall not be less than one third of the annual pension.

3. Upon the death of a married former member who was entitled to a retirement pension, his/her surviving spouse, provided he/she was his/her spouse at the date his/her service ended, shall be entitled to a surviving spouse's pension calculated as follows:

(a) If the former member had not begun, at the date of his/her death, to receive his/her retirement pension, the surviving spouse's pension shall amount to one half of the pension which would have been payable to him/her under article 1, paragraph 3, had he/she commenced to receive such pension on the date of his/her death, provided that the surviving spouse's pension shall not be less than one sixth of the annual pension;

(b) If the former member had begun to receive his/her retirement pension, under article 1, paragraph 3, before he/she reached the age of 60, the surviving spouse's pension shall amount to one half of the amount of such pension, but shall not be less than one sixth of the annual pension;

(c) If the former member had reached the age of 60 when he/she began to receive his/her retirement pension, the surviving spouse's pension shall amount

to one half of his/her retirement pension, but shall not be less than one third of the annual pension.

4. Upon remarriage, the surviving spouse shall be granted a lump sum equal to twice the amount of the spouse's current annual pension as a final settlement.

Article 4

Child's benefit

1. Each child or legally adopted child of a member or former member who dies shall be entitled, while unmarried and under the age of 21, to a benefit calculated as follows:

(a) Where there is a surviving spouse entitled to a pension under article 3, the annual amount of the child's benefit shall be:

(i) Ten per cent of the retirement pension which the former member was receiving; or

(ii) If the former member had not begun, at the date of his/her death, to receive his/her retirement pension, 10 per cent of the pension which would have been payable to him/her under article 1, paragraph 3, had he/she commenced to receive such pension on the date of his/her death; or

(iii) In the case of the death of a member in office, 10 per cent of the pension which he/she would have received had he/she qualified for a disability pension at the date of his/her death;

provided, in all cases, that the amount of the child's benefit shall not exceed one eighteenth of the annual pension;

(b) Where there is no surviving spouse entitled to a pension under article 3, or where the surviving spouse dies, the total amount of the children's benefits payable under subparagraph (a) shall be increased by the following amount:

(i) If there is only one eligible child, by one half of the amount of the pension which was being paid or would have been paid to the surviving spouse;

(ii) If there are two or more eligible children, by the amount of the pension which was being paid or would have been paid to the surviving spouse;

(c) The total children's benefits payable under subparagraph (b) shall be divided equally among all the eligible children to determine the amount of any one child's benefit; as and when a child ceases to be eligible, the total benefit payable to the remainder shall be recalculated in accordance with subparagraph (b).

2. The total amount of children's benefit, when added to the amount of any surviving spouse's benefit in payment, shall not exceed the pension which the member or former member received or would have received.

3. The age limit mentioned in paragraph 1 shall be waived if the child is incapacitated by illness or injury, and the benefit shall continue to be paid for as long as the child remains incapacitated.

Article 5

Definitions

1. "Member" means either the President, the Vice-President or other elected member of the Tribunal in office.

2. "Annual salary" means the total amount of annual, special and subsistence allowances, exclusive of any other allowance, fixed by the Meeting of States Parties and received by the member until he/she ceased to hold office, averaged in each case over the whole period of service.

3. "Annual pension" means the retirement pension referred to in article 1, paragraph 2, subparagraph (a).

Article 6

Miscellaneous

1. Pensions provided for by these Regulations shall be calculated in terms of the currency in which the salary of the member concerned has been fixed by the Meeting of States Parties.

2. All pensions provided for by these Regulations shall be regarded as expenses of the Tribunal, within the meaning of article 19 of the Statute of the Tribunal.

3. The President of the Tribunal and the Registrar shall determine conditions for the application of article 4, paragraph 3, and, on the advice of a qualified actuary or actuaries, establish a table of actuarial reduction factors.

Article 7

Application and effective date

1. These Regulations shall be applicable as from 1 October 1996 to all members of the Tribunal on or after that date and to their eligible beneficiaries.

2. Pensions in payment shall be automatically revised by the same percentage and on the same date as salary adjustments.

3. Notwithstanding the provisions of article 1, paragraph 2, subparagraph (a), and article 5, paragraph 3, in relation to pensions in payment before 1 January 2001, the amount of the annual pension shall be:

(a) 37.5 per cent of the annual salary, effective 1 January 1999;

(b) 43.75 per cent of the annual salary, effective 1 January 2000.